

# CORBETT LAW FIRM LLC

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September 28, 2017

The Honorable Andrew B. Altenburg, Jr.  
United States Bankruptcy Court District of New Jersey  
Mitchell H. Cohen U.S. Courthouse  
400 Cooper Street, 4th Floor  
Camden, NJ 08101

Re: Anthony M. Mortellite, Jr. and Colleen Mortellite  
CASE NO. 17-21818 (ABA)

Dear Judge Altenburg:

This law firm is the attorney of record for Lance Henry. Please accept this letter as Mr. Henry's objection to the Chapter 12 plan filed on behalf of debtors. The confirmation hearing is scheduled for October 5, 2017.

Mr. Henry is an unsecured creditor having an unliquidated claim against Anthony Mortellite by virtue a pending civil action in which Mr. Henry alleges damages for negligence and nuisance. A Proof of Claim was filed today as [#21](#) documenting an adjusted pre-petition claim of \$292,359.12. The underlying action involves a matter of continuing nuisance which Mr. Henry estimates will also result in \$137,747.93 in post-petition damages. On behalf of Mr. Henry, I have obtained relief from the automatic stay to continue the civil action in state court and in a related administrative proceeding. Mr. Mortellite has declined to participate relying instead on his insurance coverage which Mr. Henry has been authorized to pursue by this Court. ([Document 81](#)).

Debtors' current Chapter 12 Plan ([Document 79](#)) makes no mention of the unsecured claim of Mr. Henry presumably because a proof of claim had not yet been filed when the plan was written. However, because Mr. Henry's claim involves both pre-petition and post-petition components and because there is the likelihood that at least some portion of the claim will be paid by a third party, its inclusion on the record with the other unsecured claims is administratively important. Additionally, the omission of Mr. Henry's pre-petition claim from the plan is contrary to 11 U.S.C. §1225(a)(4).

Therefore, it is respectfully requested that this Court decline to confirm the debtors' Chapter 12 plan without the incorporation of the \$292,359.12 component of Mr. Henry's claim ([#21](#)) to be accorded the same treatment as the other unsecured claims.

CORBETT LAW FIRM LLC  
Attorney for Lance Henry

/s/ John E. Corbett

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